

### Remarks

The Examiner's Office Action mailed September 4, 2007 and the references cited therein have been reviewed. Applicants note, with appreciation, the Examiner's allowance of Applicants' claims 1-20. Concerning the other claims pending in the application, claims 27, 92, and 101 have been amended and claim 30 has been cancelled and rewritten in independent form as new claim 104. Applicants request that claims 27-29, 31-42, and 92-104 be reexamined and reconsidered in view of these amendments and further in view of the following remarks.

#### Applicants' Claim 30

In the Office Action mailed September 4, 2007, the Examiner objected to claim 30 as being dependent upon a rejected base claim but indicated that the claim would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Pursuant to the Examiner's remarks, Applicants' claim 30 has been cancelled and rewritten in independent form, including all of the limitations of the base claim and any intervening claims, as new claim 104. Applicants therefore respectfully submit that new claim 104 is in condition for allowance.

#### Applicants' Claims 101-103

Previously in this application, the Examiner indicated that certain dependent claims calling for a method comprising the step of pressing food items using a pliable material which completely surrounds the food items during the pressing step would be allowable over the cited prior art. In view of the Examiner's prior remarks, Applicants'

claim 101 has been amended to call for a method of treating food items having muscle protein, the method comprising the step of pressing the food items using a pliable material which conforms to and completely surrounds the food items during the step of pressing and wherein an amount of pressure is applied to the food items in the step of pressing in the range of from about 2 to about 120 psig. In view of this amendment and the Examiner's prior acknowledgement, Applicants respectfully submit that independent claim 101 and dependent claims 102 and 103 are in condition for allowance.

Applicants' Claims 27-29, 31-42, and 92-100

All of Applicants' claims 27-29, 31-42, and 92-100 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,467,497, issued to Peterson, et al. Specifically: claims 27, 29, 31-33, and 92-93 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson, et al.; claims 37, 40, 97, and 99 stand rejected under 37 U.S.C. § 103(a) as being unpatentable over Peterson, et al. in view of U.S. Patent No. 4,657,771, issued to Gould; claims 41, 42, and 100 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, et al. in view of Gould and further in view of U.S. Patent No. 5,544,332, issued to Ludwig; claims 34, 37-38, 94 and 97 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson, et al. in view of U.S. Patent No. 3,347,679, issued to Nordin; and claims 39 and 98 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Peterson, et al. in view of Nordin and further in view of GB 957356.

Peterson, et al. disclose a method and device for pressing thick flat pieces of frozen meat to form a thin frozen meat product. Peterson, et al. make clear throughout

their specification and disclosure that the meat products pressed in accordance with the Peterson, et al. method must be frozen. In this regard, Applicant notes that:

1. The title of the Peterson, et al. patent is Method and Device for the Production of Thin Slices of Frozen Meat Suitable for Roasting or Grilling.
2. The Abstract of the Peterson, et al. patent describes “A method and a machine for the production from relatively thick flat pieces of frozen meat, for example roast beef, of thin slices suitable for roasting or grilling. The method is characterized by the fact that the flat meat pieces, before thawing above the freezing point taking place, are passed through a channel-shaped space of flat rectangular cross-section. . .in which the meat pieces are mangled and rolled to a desired final slice thickness substantially without loss of meat juice and blood.”
3. Peterson, et al. state at Col. 1, lines 8-10 that: “The invention refers to a method for the production of thin slices of frozen meat suitable for roasting or grilling.”
4. In Col. 1, lines 11-24, Peterson, et al. teach away from the use of prior slicing (i.e., cutting) procedures wherein “ the steak, taken out from the refrigerating chamber has been allowed to thaw and assume a temperature slightly above the freezing point, after which it has been cut into suitable, relatively thick slices which have then been pounded manually by means of a steak hammer or the like into very thin slices.” In addition to being laborious and time consuming, Peterson, et al. teach that the prior process

using thawed product “is impaired by the disadvantage that a considerable amount of meat juice and blood is pressed out of the meat.”

4. Peterson, et al. teach at Col. 1, lines 25-38 that the disadvantages of the prior art are avoided by the Peterson, et al. process of pressing “relatively thick flat pieces of frozen meat” wherein “the flat meat pieces, before thawing above the freezing point taking place, are passed through a channel-shaped space of flat rectangular cross-section and of decreasing height in the direction of conveyance. . .in which the meat pieces are mangled and rolled to a desired final slice thickness substantially without loss of meat juice and blood.”
5. Peterson, et al. teach that even the pressing machine itself should be located within a refrigerator chamber operating at below 0°C in order to ensure that the product remains frozen during the Peterson, et al. process. Col. 2, lines 56-61.
6. The claims at the end of the Peterson, et al. patent also call for and require “passing a relatively thick, flat, frozen integral piece of meat between said belts and through said nips while maintaining said piece of meat frozen to substantially reduce the overall thickness of the entire piece of meat.” (Col. 4, lines 7-11)

In confirming the fact that Peterson, et al. require that the product be frozen and remain frozen throughout the Peterson, et al. process, Applicants note that the Board of Patent Appeals and Interferences stated in its decision on appeal issued on this application on July 31, 2007 that:

We find Peterson would have disclosed to one of ordinary skill in this art a method wherein flat pieces of frozen meat, which can be boneless, are mangled and rolled during passage through a channel-shaped space of flat rectangular cross-section. . . to obtain frozen meat pieces of a desired reduced thickness without loss of meat juices and blood because the processing conditions maintain the meat in frozen state.

Decision on Appeal pages 6-7.

In addition, the Board noted in regard to a prior rejection in this application concerning a proposed combination of Peterson, et al. with Margolis, that one of ordinary skill in this art would not have combined these references in view of the difference in frozen versus nonfrozen processing conditions. *Id* at pages 9-10.

In view of the requirement that the meat product processed in accordance with the method of Peterson, et al. be frozen and remain frozen throughout the process, Applicants' independent claims 27 and 92 have been amended to clarify that the method called for therein involves the pressing of food items having muscle protein wherein the food items are not frozen. The basis for this amendment is provided throughout the specification and drawings of the application. As illustrated, for example, in FIGS. 3 and 17, the pressed product provided by the present invention is ideally suited for being immediately dropped or delivered into a tank or tumbler for soaking up marinade solution or other liquid. As stated in paragraph 73 of the specification: "The resultant condition is a very soft and fluffy composition of muscle protein with a very high infusion of marination or other treatment fluid."

The specification of this application further teaches, for example, that: (a) rather than being frozen, the state of the protein and fat within the product is such that it will flow to the surface (see ¶¶'s 9, 10, and 24); (b) the product will take up liquid even during the pressing process (see, e.g., ¶ 47); (c) the structural matrix of the product is open such that the interior of the product is open for infusion and will take up liquid (see, e.g., ¶¶'s 13, 14, and 44); (d) the product will achieve liquid infusion/uptake levels of up to 50% or more (see, e.g., ¶ 23); (e) the product recoils when pressed (see, e.g., ¶ 58); and (f) the product acts like a sponge to pull liquid into the product (see, e.g., ¶ 81).

Applicants therefore respectfully submit that Applicants' claims 27-29, 31-42, and 92-100 are patentable over Peterson, et al. and over the various combinations of Peterson, et al. with other references cited in the Office Action mailed September 4, 2007.

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In view of the above, Applicants respectfully submit that Applicants' claims 27-29, 31-42, and 92-104 are in condition for allowance. Applicants therefore request that all of the Examiner's objections and rejections be removed and that claims 27-29, 31-42, and 92-104 be added to the list of allowed claims.

This paper is intended to constitute a complete response to the Examiner's Office

Action mailed September 4, 2007.

Respectfully submitted,



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